

Docket No.: CPC-10003/22  
(PATENT)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Scott T. Wepfer

Application No.: 10/645,951

Confirmation No.: 8257

Filed: August 22, 2003

Art Unit: 1617

For: TOPICAL ANESTHETIC FORMULATION

Examiner: L. Soroush

**RESPONSE TO NON-FINAL OFFICE ACTION**

MS Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**INTRODUCTORY COMMENTS**

In response to the Office Action mailed October 10, 2006, Applicant submits the following remarks.

**REMARKS**

By this Office Action, the Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

- I. Claims 1-18, 22 and 23, drawn to a formulation comprising at least one anesthetic compound selected from the group consisting of procaine, lidocaine, tetracaine and salts thereof; and a skin penetration enhancer, and a gelling agent in an anhydrous mixture, classified in class 514, subclass 536.
- II. Claims 19-21 and 24, drawn to a method for reducing pain sensation, the method comprising the steps of: applying a therapeutically effective amount of an anhydrous gel anesthetic formulation according to claim 1 to the area of an individual's skin to be anesthetized; and allowing the gel anesthetic to remain in contact with the area for a period of time sufficient to reduce pain sensation, classified in class 514, subclass 536.

Responsive to the restriction requirement, Applicant elects to prosecute the invention of Group II **without traverse**. Applicant submits that pending claims 19-21 and 24 are readable upon Group II.

The Office Action requires an election of a single species as to a plurality of (a) gelling agents, (b) dispersing agents and (c) therapeutic agents. Applicant elects (a) gelling agent hydroxypropyl cellulose, (b) dispersing agent glycerin and (c) therapeutic agent lidocaine.

Dated: *November 8, 2006*

Respectfully submitted,

By *Avery N. Goldstein*  
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